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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOHN KENNEDY, P.T.A.
10406 Camino San Thomas
San Diego, CA 92127

Physical Therapy Assistant Certificate No. AT
2377

Respondent.

Case No. 1D-2004-63773

OAH No.

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about December 17, 1990, the Physical Therapy Board of California issued Physical Therapy Assistant (PTA) Certificate Number AT 2377 to JOHN KENNEDY, P.T.A. (Respondent). The Physical Therapy Assistant Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2008, unless renewed.

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3. This Accusation is brought before the Physical Therapy Board of California Department of Consumer Affairs, under the authority of the following laws. All section to the Business and Professions Code unless otherwise indicated.

4. Section 2660 of the Code states:

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or more of the following causes:

“ . . .

“(j) The aiding or abetting of any person to violate this chapter or any
ons duly adopted under this chapter.

“(k) The aiding or abetting of any person to engage in the unlawful practice of psychotherapy.

“ ”
• • •

COST RECOVERY

5. Section 2661.5 of the Code states, in pertinent part:

“(a) In any order issued in resolution of a disciplinary proceeding before the board, if the board finds a licensee guilty of unprofessional conduct, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the reasonable costs of the investigation and prosecution of the case....”

FIRST CAUSE FOR DISCIPLINE

(Aiding and Abetting the Unauthorized Practice of Physical Therapy)

6. Respondent is subject to disciplinary action under section 2660, as defined in section 2600 (j) and (k) of the Code, in that Respondent aided and abetted the unlawful practice of sexual abuse. The circumstances are as follows:

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1 7. Respondent was the Rehabilitation Director at RehabNet, Inc. (RehabNet),
2 which contracted to provide physical therapy services at the Springs at Pacific Regent (Pacific
3 Regent), a skilled-care facility. Respondent has been the Rehabilitation Director at RehabNet, Inc.,
4 from approximately September 2002 to present.

5 8. In his capacity as Rehabilitation Director at RehabNet, Respondent handled,
6 among other things, staffing, scheduling, billing, and other management functions related to
7 rendering physical therapy services by RehabNet for Pacific Regent. As the Rehabilitation Director,
8 Respondent was responsible for directing and assigning personnel for the performance of physical
9 therapy services. To assist with fulfilling staffing needs, Respondent occasionally used the services
10 of a placement agency, also referred to as a registry, to supplement staffing when the physical
11 therapy treatment activity increased beyond the existing physical therapy staff's capacity.

12 9. Respondent aided and abetted the unlicensed practice of physical therapy by
13 assigning physical therapist assistants and physical therapist license applicants to perform patient
14 evaluations without the required direct and immediate supervision of a licensed physical therapist.
15 Respondent admitted during his investigatory interview that, on occasion, physical therapist license
16 applicants had performed physical therapy services without the direct supervision of a licensed
17 physical therapist.

18 10. A review of patient records revealed that patient records were missing the
19 required co-signature of a licensed physical therapist for services provided by physical therapist
20 license applicants including, but not limited to, the following:

- 21 (a) No co-signature for Physical Therapist License Applicant (PTLA)
22 Ayoub regarding Patient A.S. (7-23-03);
- 23 (b) No co-signature for PTLA Ayoub regarding Patient R.W. (7-23-03);
- 24 (c) No co-signature for PTLA Ratcliff regarding Patient D.L. (7-25-03);
- 25 (d) No co-signature for PTLA Ratcliff regarding Patient V.P. (7-25-03);
- 26 (e) No co-signature for PTLA Ayoub regarding Patient T.B. (7-28-03);
- 27 (f) No co-signature for PTLA Ayoub regarding Patient A.S. (7-28-03);
- 28 (g) No co-signature for PTLA Ayoub regarding Patient M.S. (7-28-03);

- (h) No co-signature for PTLA Ratcliff regarding Patient M.S. (7-29-03);
- (i) No co-signature for PTLA Ratcliff regarding Patient B.N. (7-29-03);
- (j) No co-signature for PTLA Ratcliff regarding Patient V.P. (7-25-03);
- (k) No co-signature for PTLA Ratcliff regarding Patient M.S. (7-30-03);
- (l) No co-signature for PTLA Ratcliff on Patient Ma.S. (7-30-03);
- (m) No co-signature for PTLA Ratcliff on Patient M.S. (7-31-03);
- (n) No co-signature for PTLA Ratcliff on Patient R.W. (7-31-03);
- (o) No co-signature for PTLA Ayoub regarding Patient T.B. (8-5-03);
- (p) No co-signature for PTLA Ratcliff regarding Patient J.H. (8-5-03);
- (q) No co-signature for PTLA Ayoub regarding Patient J.H. (8-6-03);
- (r) No co-signature for PTLA Ratcliff on Patient D.L. (8-7-03);
- (s) No co-signature for PTLA Ratcliff on Patient M.S. (8-7-03);
- (t) No co-signature for PTLA Ayoub regarding Patient R.S. (8-7-03);
- (u) No co-signature for PTLA Ratcliff regarding Patient R.S. (8-7-03);
- (v) No co-signature for PTLA Ratcliff regarding Patient R.W. (8-7-03);
- (w) No co-signature for PTLA Ayoub regarding Patient D.L. (8-8-03);
- (x) No co-signature for PTLA Ayoub regarding Patient V.P. (8-8-03);
- (y) No co-signature for PTLA Ratcliff regarding Patient J.S. (8-11-03);
- (z) No co-signature for PTLA Ratcliff regarding Patient D.L. (8-12-03);
- (aa) No co-signature for PTLA Ratcliff regarding Patient T.S. (8-13-03); and
- (ab) No co-signature for PTLA Ratcliff regarding Patient J.S. (8-13-03).

11. There were also times when physical therapist license applicants worked longer than any available supervising physical therapist including, but not limited to the following: during the period of July 23 to August 8, 2003, PTLA Ayoub was scheduled, on at least three occasions, to work longer than any available supervising physical therapist; and during the period of July 25 to August 13, 2003, PTLA Ratcliff was scheduled, on at least eight occasions, to work longer than any available supervising physical therapist.

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1 12. Respondent also aided and abetted the unlicensed practice of physical therapy
2 when he, as a physical therapy assistant, designed treatment plans and assigned the amount of time
3 that registered physical therapists, physical therapist assistants or physical therapist license applicants
4 could spend evaluating and treating patients. A review of Physical Therapy Charge Sheets include
5 handwritten entries by Respondent indicating how many units (1 unit equals fifteen minutes) of
6 evaluation or treatment time each patient was to receive. Respondent also assigned all evaluations
7 for fifteen minutes thereby not allowing the physical therapist to determine the appropriate course
8 of the evaluation considering that some patients would need a more thorough evaluation depending
9 on the findings of the physical therapist.

10 13. While serving in his capacity as the Rehabilitation Director at RehabNet,
11 Respondent, on occasion, also served a dual role of examining patients as a physical therapist
12 assistant. As of the date of his investigatory interview, Respondent admitted that he continued this
13 dual role of serving as Rehabilitation Director and as a PTA, though on a much more limited basis,
14 treating patients “once in a blue moon.” Specific examples of Respondent serving in this dual role
15 of Rehabilitation Director and physical therapist assistant include, but are not limited to the
16 following:

- 17 (a) Respondent supervised staff and also treated Patient R.W. (8-4-03);
- 18 (b) Respondent supervised staff and also treated Patient R.W. (8-11-03);
- 19 (c) Respondent supervised staff and also treated Patient J.S. (8-12-03);
- 20 (d) Respondent supervised staff and also treated Patient J.S. (8-13-03);
- 21 (e) Respondent supervised staff and also treated Patient D.L. (8-15-03);
- 22 (f) Respondent supervised staff and also treated Patient D.L. (8-16-03);
- 23 (g) Respondent supervised staff and also treated Patient J.H. (8-19-03);
- 24 (h) Respondent supervised staff and also treated Patient A.S. (9-2-03);
- 25 (i) Respondent supervised staff and also treated Patient A.S. (9-3-03);
- 26 and
- 27 (j) Respondent supervised staff and also treated Patient A.S. (9-5-03);

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

4 1. Revoking or suspending Physical Therapist Assistant Certificate No. AT 2377,
5 issued to JOHN KENNEDY, P.T.A.

6 2. Ordering JOHN KENNEDY, P.T.A. to pay the Physical Therapy Board of
7 California the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 2661.5; and

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: December 12, 2006

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14 Original Signed By:
15 STEVEN K. HARTZELL
16 Executive Officer
17 Physical Therapy Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant

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